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| APPLICATION NO.              | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO. | CONFIRMATION NO. |
|------------------------------|-------------|----------------------|---------------------|------------------|
| 10/077,133                   | 02/15/2002  | Wilfrid LeBlanc      | 13326US01           | 2909             |
| 23446                        | 7590        | 06/28/2006           | [REDACTED]          | EXAMINER         |
| MCANDREWS HELD & MALLOY, LTD |             |                      |                     | WILSON, ROBERT W |
| 500 WEST MADISON STREET      |             |                      |                     |                  |
| SUITE 3400                   |             |                      | ART UNIT            | PAPER NUMBER     |
| CHICAGO, IL 60661            |             |                      |                     | 2616             |

DATE MAILED: 06/28/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

|                              |                                     |                         |  |
|------------------------------|-------------------------------------|-------------------------|--|
| <b>Office Action Summary</b> | <b>Application No.</b>              | <b>Applicant(s)</b>     |  |
|                              | 10/077,133                          | LEBLANC, WILFRID        |  |
|                              | <b>Examiner</b><br>Robert W. Wilson | <b>Art Unit</b><br>2616 |  |

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

1) Responsive to communication(s) filed on 07 June 2006.

2a) This action is FINAL.      2b) This action is non-final.

3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

4) Claim(s) 8 and 11-22 is/are pending in the application.

4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.

5) Claim(s) 13-20 is/are allowed.

6) Claim(s) 8 is/are rejected.

7) Claim(s) 11,12,21 and 22 is/are objected to.

8) Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

9) The specification is objected to by the Examiner.

10) The drawing(s) filed on \_\_\_\_\_ is/are: a) accepted or b) objected to by the Examiner.  
 Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
 Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. § 119

12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a) All    b) Some \* c) None of:

1. Certified copies of the priority documents have been received.
2. Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

#### Attachment(s)

|   |   |
|---|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)   | 4) <input type="checkbox"/> Interview Summary (PTO-413)                     |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)  | Paper No(s)/Mail Date. _____  |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date <u>11/22/03</u> | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
|   | 6) <input type="checkbox"/> Other: _____                                    |

### **DETAILED ACTION**

1. The examiner compared the specification material to the claims of the cite CIP references specified on the BIB sheet. It is the examiner's opinion that claiming priority to Patent No.: 6,882,711 dated 12/9/1999 is not appropriate the specification material does not relate to the claimed invention of echo canceling. The examiner believes that reference to Patent No.: 6,549,587 with a date of 3/9/2000 is appropriate because ERL and ERLE as well as echo cancelling are described in this patent's specification which relates to the applied for invention in this application.

#### *Allowable Subject Matter*

2. Claims 13-20 are allowed.

The following is an Examiner's statement of reasons for allowance: The closest prior art is Maryama (U.S. Patent No.: 4,741,025).

The abbreviations in the claims are defined as follows:

Echo Return Loss is ERL

Echo Return Loss Enhancement is ERLE

First long term estimate of ERL is ERLlt

Second long term estimate of ERL is ERLc or ERLE'lt depending upon the claim.

The applicant correctly incorporated previously objected dependent claim limitations and all intervening claim limitation correctly. Please refer to applicant arguments for details.

***Claim Objections***

3. Claims 11-12 & 21-22 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

***Claim Rejections - 35 USC § 103***

4. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

5. Claim 8 is rejected under 35 U.S.C. 103(a) as being unpatentable over Meek (U.S. Patent No.: 5,745,564)

Referring to claim 8, the applicant did not correctly incorporate the previously objected to limitations. The applicant incorporated the limitation of claim 9 but did not incorporation the limitations of claim 10. Consequently, the examiner is submitting this new rejection based upon the applicants amendment. Meek teaches: a method for providing attenuation or gain for a communication signal per col. 1 lines 9-67. The echo canceller inherently receives a signal and the adaptive filter of the echo canceller generates performance information ERL and ERLE per col. 1 lines 9-67. ERL and ERLE are summed to form total attenuation which the examiner interprets as combined loss per col. 1 lines 9-67.

Meek does not expressly call for: adjusting the gain to be provided to the signal based on the combined loss rate.

Meek teaches that ERL and ERLE are summed to form the total attenuation.

It would have been obvious to one of ordinary skill in the art at the time of the invention that the total attenuation or combined loss is provided to the subtraction unit which subtracts the combine loss rate in order for the invention to work.

*Response to Amendment*

6. Applicant's arguments with respect to claims 8 & 11-22 have been considered but are moot in view of the new ground(s) of rejection.

7. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

*Conclusion*

8. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Robert W. Wilson whose telephone number is 571/272-3075. The examiner can normally be reached on M-F (8:00-4:30).

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Doris To can be reached on 571/272-7629. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

*Robert W. Wilson*  
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Examiner  
Art Unit 2616

RWW  
6/23/06

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